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**Name of policy: CAPABILITY POLICY**

**REVISION HISTORY**

	Date
APPROVED BY COMMITTEE	
RATIFIED BY GOVERNING BODY	
NEXT REVIEW	

Head Teacher \_\_\_\_\_ Date \_\_\_\_\_

Chair of Governors \_\_\_\_\_ Date \_\_\_\_\_

## Capability Policy

Church Hill School buys into Capita Human Resources services and as such follows the guidance set down by the HR department. The school follows the procedures as laid down in the Barnet Council Capability policy D1 set out below.

Capability is assessed with reference to skill, aptitude, attitude, behaviours, competence, knowledge and ability to do the job. It is important that staff have a clear understanding of what constitutes good practice and that they have been given appropriate guidance and support to ensure that they are able to carry out their duties effectively.

Where a member of staff is deemed to be at risk of being subject to capability procedures they will be made aware of the policy and associated timelines and encouraged to take any support that is offered through their union or other agencies.

## D1 Capability Policy

### 1 Policy

- 1.1 The objectives of this policy are to help and encourage all employees to achieve and maintain satisfactory standards of job performance and to ensure that Barnet Council has fair and effective arrangements in place for dealing with work performance and capability matters. The Council is committed to ensuring that all staff have the appropriate skills, knowledge, competence, behaviours and aptitude to undertake their role effectively.
- 1.2 Where employees are performing below expectations, the role of the line manager will be to bring this to the attention of the individual and to work closely with them to support them to improve performance to an acceptable level. The objective will always be to set out a constructive approach to achieving improved work performance through effective supervision, mentoring, support and training, and performance review and development.
- 1.3 Whilst the Council will support employees who are underperforming, it is the employee's responsibility to take whatever action is necessary, including seeking guidance, to improve their performance.
- 1.4 The above forms the Council's policy as at October 2010, it should be noted that: -
  - the policy does not confer any contractual rights
  - the Council will retain the right to review the policy at any time. Changes may result from employee, management and trade union feedback and/or from changes in employment legislation. The Council, following consultation with recognised Trade Unions, will implement revisions and updates.
  - The policy will cease on the 1 April 2015

### 2 Scope

- 2.1 This policy applies to all Council employees, including Head Teachers, Teachers and Chief Officers.
- 2.2 A Chief Officer is defined as a Deputy Chief Executive, Assistant Chief Executive, Director or a designated Deputy to one of the Directors.
- 2.3 The policy excludes the Chief Executive.
- 2.4 The policy is recommended for implementation for staff directly employed by schools, for example those based in Academies.
- 2.5 The policy excludes employees who are on probation. The Probation Policy and Procedure will be applied.
- 2.6 Issues of discipline are not dealt with under this policy. The conduct policy will apply where misconduct or negligence are believed to be the causes and also where employees have demonstrated that they are capable of performing the job at the required level but choose not to do so. The authority to make a decision on whether an individual will be dealt with under the Capability or Conduct policy will be made according to the guide at Annex A.
- 2.7 In cases of sickness absence, the procedure below should be read in conjunction with the Council's Attendance Management Policy and Procedure.

- 2.8 For cases relating to alcohol and drugs dependency, the procedure should be read in conjunction with the Council's Alcohol, Drugs and Substance Misuse Policy and Procedure.
- 2.9 The Council has adopted a Performance Review Process and that is separate from this Capability Process. However, information from the Performance Review Process can be used to inform deliberations under the Capability Process.

### **3 Procedure**

- 3.1 For the purposes of this policy and procedure, capability is assessed with reference to skill, aptitude, attitude, behaviours, competence, knowledge and ability to do the job.
- 3.2 This policy and procedure will ensure that:
  - 3.2.1 Cases of poor performance are handled fairly and consistently with any underlying reasons and mitigating circumstances taken into account. Employees have the right to reasonable adjustments under the Equality Act 2010.
  - 3.2.2 Employees are offered appropriate support and training within a performance management framework.
  - 3.2.3 All employees are aware of the performance and standards of work expected of them.
  - 3.2.4 Employees will be given the opportunity to state their case and be represented at all formal stages of the Capability Procedure, by a trade union representative or work colleague employed by the London Borough of Barnet of their choice.
  - 3.2.5 A record of discussions and agreed actions, in the form of a Performance Improvement Plan, will be retained and a copy will be provided to the employee at all stages of the procedure.
  - 3.2.6 Employees will have a right of appeal against the issuing of a Final Written Warning under Stage 1 of the Capability Process and also against any decision short of dismissal or to dismiss for reason of capability at Stage 2 of the Capability Process.
  - 3.2.7 Timescales for meetings, appeals etc, may be varied by mutual agreement. The intention is to avoid unreasonable delay but to allow for reasonable flexibility.
  - 3.2.8 Whilst every effort will be made to enable an employee to improve their performance and retain them in post, the Council cannot guarantee to maintain employment if reasonable and appropriate performance is not achieved following the exhaustion of the Capability Procedure.
- 3.2.1 In exceptional cases where one performance error has serious consequences the principles in this policy may not apply. Instead the matter may be dealt with as potential misconduct or gross misconduct under the Council's Conduct Policy.

### **4 Summary of Process**

4.1 The Capability Procedure contains the following stages:

Stage	Suggested Timescale	Action	Outcome
Informal Support	4 – 8 weeks	Meeting with employee	See <b>Annex A</b> for authority levels to manage the Procedure at this level. Informal remedies may be initiated e.g. coaching, training courses, reminder of standards. Where performance remains unsatisfactory consideration given to progressing to Stage 1.
Stage 1	4 – 12 weeks	Formal Capability Meeting	See <b>Annex B</b> for authority levels to hold the meeting. Performance Improvement Plan (PIP) produced for review between 4-6 weeks.
		Review Meeting/s – after 4-6 weeks	Where performance has risen to an acceptable level and is maintained for at least 3 months from the most recent Review Meeting, the procedure ends. Where there has been insufficient progress consideration should be given to issuing a First Written Warning and issuing a further PIP, for review in 4-6 weeks. Where no progress has been made and serious concerns remain consideration should be given to issuing a Final Written Warning and progressing directly to Stage 2. See <b>Annex D</b> for appeal authority.
Stage 2	4 weeks	Capability Hearing	See <b>Annex C</b> for authority levels to hold the Hearing. Possible outcomes include the issuing of a further PIP / Redeployment / Dismissal.
Stage 3		Appeal	See <b>Annex D</b> for appeal authority.

## **5 Guidance**

### **5.1 Employee's Responsibilities**

All employees have a responsibility to:

- take full accountability for their own performance and behaviour;
- perform in line with the Council's Values and Behaviours as well as any Skills or Competency Framework taking into account agreed personal development needs;
- to contribute to 1:1s and to engage in objective setting, problem solving, review and evaluation;
- to work with managers constructively to address any underlying issues which may be affecting performance;
- to move forward their learning and development by taking ownership for their personal development;
- be open to constructive feedback.

### **5.2 Probationary Periods**

Where action is necessary in respect of a new employee during their probationary period, action should be taken in accordance with the Probationary Policy and Procedure.

### **5.3 Link to Pay and Performance Management**

In accordance with the Council's performance management and reward policies, where an employee is being managed under the formal stages of the Capability Procedure, bonus payments may not apply or pay progression. Indexation, where applicable, will still apply.

### **5.4 Capability Management of Trade Union Representatives**

Although normal capability and work performance standards apply to trade union representatives, no formal capability management action will be taken until the circumstances of the case have been discussed with a senior trade union representative or full time official, in consultation with HR. This arrangement is in place to avoid the action being misconstrued as an attack on the union itself or on its representation and negotiating role, and is in accordance with the ACAS Code of Practice.

### **5.5 Definition of a Working Day**

Where reference is made to "working days" in this policy, the meaning of a "working day" for all establishments except Schools is Monday to Friday (excluding Bank and Public Holidays), irrespective of whether this is a normal working day for the employee. For Schools, "working day" means one of the 195 days in a School year; of which 190 days must be days on which the teacher may be required to teach pupils and perform other duties and 5 days must be days on which the teacher may only be required to perform other duties

### **5.6 Timescales**

As each case will be different it is not appropriate to set fixed timescales for each stage of the procedure. As a general guide performance review periods should be at least 4 weeks but no longer than 8 weeks.

Timescales for meetings, appeals etc, may be varied by mutual agreement.

Where the education of pupils is at risk the review periods should not be

more than four school working weeks.

### **5.7 Capability Records**

Records of formal action will be disregarded for future capability purposes after a maximum of 24 months, see **Annex E**. Records will be treated as confidential and kept in accordance with the Data Protection Act 1998. However, these records may form part of other processes as necessary

### **5.8 Support for Employees and Managers**

Trade unions are able to offer support and guidance to employees who are members of the union and who are facing potential management action.

### **5.9 Mediation and Alternative Dispute Resolution**

The Council reserves the right to seek assistance from external facilitators at any stage of this procedure in the interest of seeking a satisfactory and objective outcome for all. In exceptional circumstances it may be appropriate to bring in an external independent party to conduct the appeal. The Council reserves the right to make this decision if the circumstances are appropriate and to ensure there is complete objectivity and transparency in the hearing of the appeal.

## **6 Ill Health / Disability**

### **6.1 Identification**

Managers in conjunction with a member of the HR team, should consider whether an employee may be considered to have a disability under the Equality Act 2010, and if so whether 'reasonable adjustments' might permit retention in the job, or in another job. Managers should also explore with employees whether any reasonable adjustments could be made to improve performance.

### **6.2 Reasonable Adjustments**

If ill health or a disability is affecting an individual's performance the employee should raise this with their manager so that this may be taken into account and any reasonable adjustments made. A critical stage in assisting an employee may be to gain authorisation to access their medical records. If it is necessary for an employee's full medical records to be reviewed then this will be done directly by Occupational Health. However, with the employee's permission, relevant information as determined by the medical practitioner will be made directly available to HR. Permission will be obtained from an employee each time medical information is requested. In addition, the Council may request that an employee be seen by the Occupational Health service and / or an independent medical examiner. If an employee refuses permission to any or all of the above, any future decisions, which the Council makes, will be based on the evidence and knowledge at its disposal.

## **7 Capability Process - Guidance**

### **7.1 The Informal Stage**

The Council encourages managers to make employees aware of any shortfall in their performance as part of routine day-to-day performance management, without entering into the Capability Procedure. In many instances, this action will allow the employee to address their under-performance. This will form part of normal supervision and the Performance Review Process

## 7.2 Informal one to one meeting

Where employees have not addressed their underperformance as part of the normal performance management discussion the manager will invite the employee to an informal meeting. This is part of the Capability Procedure. As the meeting is 'informal action', neither party will be accompanied nor will the right of representation exist, as the aim is to try and resolve matters on a one to one basis and in an informal capacity. As part of this meeting, the employee will be offered access to additional training, support or role clarification, as appropriate to the situation.

The aim of this meeting is to try and help the employee rapidly address their under-performance in an informal manner. A problem solving approach will be taken to address the situation.

### 7.2.1 During the meeting:

- The employee will be provided with specific examples of the areas of under-performance which are causing concern.
- They will be asked to explore possible reasons for the performance shortfall.
- The standards of required job performance will be confirmed to the employee once more and the employee will be set a performance improvement plan (PIP), **Annex F**, including short term objectives which they need to achieve by a specified timescale.
- Additional support required by the employee will be identified and, where reasonable, provided by the Council/ line manager.
- Where medical/ disability related reasons may be affecting the employee's performance and this is identified as a possibility, the manager should refer to HR. It may be necessary to ask the employee to authorise Access to Medical Records and see a member of the Occupational Health Service team or, exceptionally, at the Council's discretion, an independent medical consultant.
- The timetable for achievement of the performance improvement plan will be set by the manager but will be a minimum of 4 weeks and a maximum of 8 weeks. It is not recommended that this period exceeds 4 weeks where the education of pupils is at risk.
- During this time, the manager may, as necessary, hold regular informal interim review meetings with the employee both to provide feedback on progress and to encourage and motivate improved performance.
- The manager will confirm to the employee that the formal stages of the Capability Procedure will be implemented if the employee fails to improve sufficiently with sustained satisfactory performance standards.
- A note will be made of the meeting and a copy given to the employee for their record.
- If there is a need to share with any other parties (other than HR) the fact that the employee is being managed under the informal stage of the procedure, this will be discussed and agreed at the meeting, for example if the employee's work is to be monitored by a third party or if they are to be provided with on-the-job training by someone else in the team.

## 7.3 Outcomes of the Informal Stage

- 7.3.1 If at the review interview, it is evident that the required improvement has been made then the employee will be given positive feedback and reminded of the need to sustain this improved level of performance. Where the required improvement is not maintained for 3 months from the most recent review interview, the employee does not restart the process at the Informal Support stage but continues on from the most recent Review Meeting.
- 7.3.2 Should significant improvements be evident, but the employee has not yet achieved the required standards of performance, the manager may choose to extend the length of the review period for a further 4 weeks.
- 7.3.3 If there has been insufficient improvement, or there is a further shortfall in performance, the formal part of the Capability Procedure will be implemented and the employee will be requested to attend a Stage 1 Capability Meeting.

## **8 The Formal Stages- Stages 1, 2 and 3**

If the informal approach to improving performance has been unsuccessful, the employee will be advised of this, and it will be confirmed that the formal procedure will be followed. At all formal capability meetings, employees will have the right of representation.

## **9 Stage 1 Capability Meeting**

- 9.1 Employees will be issued with a letter, normally giving 7 working days' notice, of the requirement to attend a Stage 1 Capability Meeting. This notice will include a reminder about the employee's right of representation. The meeting format is similar to the structure of the meeting held at the informal stage.
- 9.2 The purpose of this meeting is to:
- Identify clearly and fairly the ways in which the employee is under-performing providing examples as appropriate.
  - Explore with the employee what may be the possible causes for the shortfall in performance.
  - Allow the employee to have the opportunity to challenge and/or put forward any facts and evidence for consideration.
  - Reconfirm the standards of performance, which are expected of job holders.
  - Explore the support which has already provided as part of the informal process and investigate what other support may be reasonably to the employee to improve their performance.
  - Confirm that the employee is clear as to the concerns about performance, the standards that are reasonably required, and understands the particular areas where there are shortfalls.
- 9.3 Having given consideration to the contents of the discussions, the manager will confirm one of the following four outcomes:
- No further action is appropriate at this time;

- The employee will continue to be managed under the informal stage of the policy;
  - The employee will be managed under Stage 1 of the Capability Policy and formally reviewed in 4-6 weeks.
- 9.4 The manager will confirm to the employee that if they fail to improve and sustain satisfactory performance standards that it may be necessary to move to Stage 2 of the formal Capability Procedure and that ultimately a failure to achieve and maintain satisfactory performance could lead to dismissal.
- 9.5 As a general principle it is not expected that witnesses will be required to attend the meetings within the formal stages of the process. The employee or the manager who is hearing the case may submit witness statements. The statements may form part of the evidence gathering process leading up to the decision taken to progress through the process.
- 9.6 Witnesses should only be called to a formal meeting where there is doubt as to a matter of fact in their statements.
- 9.7 If there is a need to share with any other parties, other than HR, the fact that the employee is being managed under the formal stage of the policy, this will be discussed at the meeting (e.g. if the employee's work is to be monitored and assessed by a third party or if they are to be provided with on-the-job training by someone else in the team etc).
- 9.8 A letter confirming that the employee is being managed under Stage 1 of the Capability Policy will be issued to the employee following the meeting. The letter will include copies of the file notes of the meeting, the outcomes of the meeting, the Performance Improvement Plan, any actions agreed and the potential consequences of failure to achieve a significant and sustained improvement within the agreed time period.

## **10 Stage 1 Review Period**

- 10.1 Where the employee will continue to be monitored under the formal stage of the policy the manager will set a Performance Improvement Plan, see **Annex F**.
- 10.2 A review period of between 4-6 weeks will be agreed during which, the manager will continue to hold regular review meetings with the employee both to provide feedback on progress and to encourage and motivate improved performance. These interim informal review meetings will be held on a one to one basis and employees will not have a right of representation at such meetings. It is not recommended that a review period exceed 4 weeks where the education of pupils is at risk.

## **11 Outcomes of Stage 1 Final Review Meeting**

- 11.1 The employee will be called to a final Review Meeting, normally giving 7 working days notice. The line manager will discuss the employee's overall progress since the plan was set and they will be informed of the outcome of the review period.
- 11.2 If at the end of the review period the required improvement has been made, this will be confirmed to the employee. The employee will resume any

entitlement to bonus payments and progression, where applicable. The manager will also confirm that the improved level of performance must be maintained for at least 3 months and any subsequent lapse in performance may lead to action under the Capability Procedure being resumed without starting afresh.

- 11.3 If some improvement has been made but the standards have not yet been met, the manager may extend the current review period for a maximum period of 6 working weeks and issue a First Written Warning. The employee should be reminded of the potential consequences of failure to achieve a significant and sustained improvement. A Final Review Meeting will be held at the end of that extended period to review progress.
- 11.4 If the conclusion of Stage 1 is that the employee's performance has not sufficiently improved and there is still evidence of incapability, it should be made clear to the employee that they will now be invited to a Capability Hearing, which will consider terminating the employee's contract on the grounds of capability. At this point consideration should also be given to issuing a Final Written Warning.
- 11.5 Where a Final Written Warning has been issued the manager will confirm the employee's right to appeal. All appeals should be addressed to the manager in writing, clearly stating the reasons for appeal, within 5 working days of the written confirmation of the warning. See **Annex D** for details of who will be involved in the appeal. There is no right of appeal against the issuing of a First Written Warning.

## **12 Stage 2 Capability Meetings**

The meeting format will be as for Stage 1 and employees will be given 7 working days' notice, of the meeting and of their right of representation.

As an essential part of the Stage 2 meeting, consideration will continue to be given to the nature of support which may be appropriate for the employee in the circumstances including additional training, or access to other relevant Council services including Occupational Health.

### **12.1 Stage 2 - Capability Case Hearing**

- 12.1.1 The aim of this Hearing is to enable all parties to have their case presented for consideration and a decision made as to next steps. Detailed guidance on the format of the Capability Hearing can be seen at **Annex G**.
- 12.1.2 This meeting, given its potential implications and significance, will be held by an appropriate authority, please see **Annex C** for guidance. The HR team is available for support if required. In exceptional but appropriate circumstances, the Council reserves the right to ask someone external to the Council to hear this meeting.
- 12.1.3 Employees will be given at least 7 working days' written notification of the Capability Hearing.
- 12.1.4 The manager involved at the previous stage of the procedure and the employee and their representative, will be asked to compile a summary

report of the case to be presented to the Capability Hearing Manager.

- 12.1.5 Each party is responsible for providing a copy of this summary report, no later than 2 working days' in advance of the Capability Hearing, to the other involved parties (i.e. the Capability Hearing Manager; employee and their representative).
- 12.1.6 Witnesses should only be called to the Capability Hearing where there is doubt as to a matter of fact in their statements. As a general principle it is not expected that witnesses will be required to attend. The employee or the manager who is hearing the case may submit witness statements. The statements may form part of the evidence gathering process.
- 12.1.7 Where it has been agreed necessary that witnesses attend, they should have been invited to the meeting and their attendance confirmed in advance.

### **12.2 Non-Attendance at a Capability Hearing**

If either the employee or their representative is unable to attend a meeting on the date of the Capability Hearing due to sickness or another substantial and valid reason, the meeting may be postponed and rearranged for within 10 working days of the original meeting date. If the employee is unable to attend this second rearranged meeting, the meeting will be held in the employee's absence. However employees will have the option of requesting that their representative be allowed to present the case in their absence or to present any evidence in writing.

### **12.3 Possible Outcomes of the Capability Hearing**

The Capability Hearing allows for the following penalties / directives to be applied:

- No further formal action required but the employee is to maintain satisfactory levels of performance. A failure to do so may lead to a further Capability Hearing and dismissal may be a consideration. The employee will resume any entitlement to bonus payments and progression.
- Extension of Stage 1 and a further final review meeting with the option of moving to Stage 2 and a Capability Hearing if there is no improvement within set timescales.
- Dismissal with contractual notice.
- Dismissal with pay in lieu of notice.
- Offer of alternative employment as an alternative to dismissal - this may not be at the same grade, seniority, or with the same benefits or pay and will not carry any protection of existing salary or benefits.

The outcome of the Capability Hearing will be confirmed to the employee in writing, including the right of appeal.

## **13 Stage 3 - Appeals**

Employees have the right to appeal against any Final Written Warning given and against dismissal within the terms of this procedure.

- 13.1 The employee must provide notice of the appeal in writing within 5 working days of written confirmation of any formal decision under this policy.
- 13.2 A manager authorised to take such action, see **Annex D** for guidance will conduct the Appeal Hearing.
- 13.3 An appeal may overturn, modify, or uphold the original decision. Generally, the appeal hearing will not be a re-hearing of the whole capability case unless the person hearing the appeal concludes that the earlier proceedings were in some way fundamentally flawed.
- 13.4 When lodging an appeal, the employee should state the grounds and brief reasons for their appeal.
- 13.5 The grounds of an appeal will normally be based on one or more of the following:
- that the penalty is unfair / inconsistent under the circumstances (judgement);
  - new evidence has arisen which was not considered at the original meeting and which may have a bearing on the outcome (facts);
  - that the policy and procedure has not been followed correctly (process).
- 13.6 Appeals should be addressed to the manager who issued the original decision.
- 13.7 Appeal hearings will take place as soon as reasonably possible upon receipt of the employee's written notice of appeal.
- 13.8 At the formal hearing, the authorised manager will initially review the proceedings to date to decide whether the appeal hearing will take the form of a review of the previous capability decision or a full rehearing of the case.
- 13.9 Generally, the outcome of the appeal hearing will be confirmed orally at the conclusion of the appeal hearing. In some circumstances it may be necessary to adjourn, to complete further investigations. In these situations, the appeal hearing will be reconvened and the decision confirmed orally at the conclusion of this hearing. All decisions will be confirmed in writing.
- 13.10 For Head Teachers and Teachers employed in school with delegated budgets the Education Act 1996 states that the Governing Body should give the employee an opportunity of appeal before notifying the Local Authority of the decision to dismiss.
- 13.11 The appeal manager's decision is final. No further right of appeal exists within the London Borough of Barnet.
- 13.12 Where an appeal against dismissal fails, the effective date of termination of employment will be the date on which the employee was originally dismissed.

**Authority to determine Capability or Conduct Procedure**

<b>Job Role</b>	<b>Authority</b>
Head Teacher – directly employed by the Council under Head Teachers’ pay and conditions	Chair of Governors
Head Teacher – employed by the Governors	Chair of Governors
Teacher, including Deputy Head Teacher - directly employed by the Council under Teachers’ pay and conditions	Head Teacher or Chair of Governors
Teacher, including Deputy Head Teacher - employed by the Governors	Head Teacher or Chair of Governors
Chief Officer	Chief Executive or individual nominated by him/her
All other employees, not listed above including Centrally Employed Teachers	First line manager

**Stage 1 – Investigation and Capability Meeting**

<b>Job Role</b>	<b>Authority</b>
Head Teacher – directly employed by the Council under Teachers’ pay and conditions	Panel of Governors
Head Teacher – employed by the Governors	Panel of Governors
Teacher, including Deputy Head Teacher - directly employed by the Council under Teachers’ pay and conditions	Panel of Governors
Teacher, including Deputy Head Teacher - employed by the Governors	Panel of Governors
Chief Officer	Chief Executive or individual nominated by him/her
All other employees, not listed above including Centrally Employed Teachers	First line manager

**Stage 2 - Capability Hearing**

Job Role	Authority
Head Teacher – directly employed by the Council under Teachers’ pay and conditions	Panel of Governors  Director Childrens’ Services or individual nominated by him/her can attend to provide advice
Head Teacher – employed by the Governors	Panel of Governors  Director Childrens’ Services or individual nominated by him / her can attend to provide advice
Teacher, including Deputy Head Teacher - directly employed by the Council under Teachers’ pay and conditions	Panel of Governors  Director Childrens’ Services or individual nominated by him / her can attend to provide advice
Teacher, including Deputy Head Teacher - employed by the Governors	Panel of Governors  Director Childrens’ Services or individual nominated by him / her can attend to provide advice
Chief Officer	Chief Executive or individual nominated by him/her
All other employees, not listed above including Centrally Employed Teachers	Minimum second line manager. The manager must have the authority to dismiss.

## Stage 3 - Appeal Authority

Job Role	Authority – Appeal against Final Written Warning	Authority – against Dismissal
Head Teacher – directly employed by the Council under Teachers' pay and conditions	Panel of Governors.	Panel of Governors.
Head Teacher – employed by the Governors	Panel of Governors.	Panel of Governors.
Teacher, including Deputy Head Teacher - directly employed by the Council under Teachers' pay and conditions	Panel of Governors.	Panel of Governors.
Teacher, including Deputy Head Teacher - employed by the Governors	Panel of Governors.	Panel of Governors.
Chief Officer	Chief Executive	Chief Executive
All other employees, not listed above including Centrally Employed Teachers	More senior manager than the manager issuing the First or Final Written Warning.	Minimum Chief Officer level

**Note 1: There is no appeal allowed for any action within the informal stages or against a First Written Warning of the Capability Procedure.**

**Retention of Warnings**

<b>Warning</b>	<b>Period of time the Warning will remain on an individual's personal record</b>
Oral informal warning	6 months
Stage 1 Written Warning	12 months
Stage 2 Action short of dismissal	24 months

**EXAMPLE ONLY****Performance Improvement Plan**

<b>Issue</b>	<b>Objective</b>	<b>Targets</b>	<b>Timescale for improvement</b>	<b>Support offered</b>	<b>How performance will be measured</b>
Lack of knowledge and skill in recruitment process.	To be able to independently carry out effective short-listing against job descriptions and person specifications.	To complete two short listing exercises, according to Barnet's process.	2 weeks	To follow the guidelines for short listing (copy attached). Buddy nominated to support through first short-listing process.	Short listing completed and assessed by Team Leader to ensure it complies with Barnet's process and Equal Opps guidelines.
	2. To undertake effective recruitment interviews.	To complete three effective recruitment interviews complying with current policy and guidelines.	4 weeks (to include course)	To attend an interview refresher course. Guidelines given. Buddy assigned.	Training completed. Interviews assessed against Barnet's standards.
Poor data input relating to job applications from the Website.	To ensure the recruitment system is updated regularly with accurate information	Applications received are input into the correct database on a daily basis.	2 weeks	One to one IT refresher training by Database Manager.	Team Leader to check that all data is input and that it is accurate. This will be completed every two days.

## **Guidelines for the conduct of the Capability Hearing and Appeals**

### **1. Procedure**

- 1.1. Minutes of the proceedings at the hearing will be taken. These will not be a verbatim record but should give an adequate account of proceedings.
- 1.2. Hearings and appeals should not be conducted in public. Care should be taken over any announcement of the conclusion and participants must not discuss the case with anyone in order to avoid prejudice.
- 1.3. Anyone involved in the hearing or appeal should have no personal connection with those directly involved.
- 1.4. In all hearings and appeals the over-riding requirement is that both sides are treated reasonably and fairly, and are given ample opportunity to put their case always providing that the true purpose is not obscured by the introduction of irrelevant material.

### **2. Process**

It is recommended that the conduct of meetings for hearings or appeals should be as follows:

- 2.1 The Chair of the Hearing should ensure in opening remarks that all present understand the purpose of the meeting, whom everyone is and who they represent, and that everyone has copies of relevant papers. For hearings, the Chair should also ascertain the attendance of any witnesses to be called but no witnesses are present at this Stage. For appeals, any witnesses who have been called to attend for either party are all present from the outset until released after questioning.
- 2.2 The Chair presents the management case. This is expected to last no more than ten minutes. Where witnesses are called, all parties have the right to question them.
- 2.3 In hearings, witnesses must withdraw as soon as questions to them are concluded.
- 2.4 When this presentation is completed, anyone present may ask questions about it.
- 2.5 The respondent then presents his/ her case. His/her representative may make the presentation on behalf of the respondent. This is also not expected to last longer than ten minutes.
- 2.6 Either side may ask questions of the respondent or of any witnesses produced by the respondent.
- 2.7 Either side may ask questions about any written submissions produced by the other.
- 2.8 Each side is then given the opportunity to sum up, then

respondent speaking last. No new material should be introduced at this stage.

- 2.9 The Panel or the Chair consider their decision in private, all other parties having withdrawn except that they may seek advice from the Director Childrens' Service or his/her representative, or from the HR Team on procedural or technical matters.
- 2.10 If the Panel or Chair feel that they cannot reach a conclusion without further material information or evidence, the hearing must be resumed with all parties present.
- 2.11 The Panel or Chair may be asked for an adjournment. They will need to assess the reasons for such a request and decide accordingly.
- 2.12 Once the Panel or Chair have reached a conclusion they should wherever possible, announce this orally in the presence of all parties (excluding witnesses) together with their reasons. In any case, this must be put into writing and sent to both sides at the earliest opportunity.
- 2.13 Thereafter any public statement should be confined to the decision only.